



# Erie County Cultural Funding **INFORMATIONAL MEETING**

revised for posting on the County website

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January 27, 2016

# Agenda

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- Welcome
- 2016 Contracts
- Overview of EACAB Charge/Mission
- Positive Trends
- Cautionary Trends
- Foreshadowing 2017 Cultural Funding
- Comments/Questions

# 2016 Contracts

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- Will be mailed by end of February 2016

# Overview: EACAB Charge & Mission

- Erie Arts & Cultural Advisory Board (EACAB)
  - Does NOT evaluate your art or programs
  - Reviews your ORGANIZATION in:
    - Governance
    - Management/Planning
    - Fiscal Health
    - Community Impact
    - Alignment of programming with mission

# Feedback Provided & Encouraged

- Letters to applicants (personal & individual)
- Public meeting (overview & examples)
- Improvements to application  
(your comments to the County)
- Communication - seek continuous improvement

# Feedback Letters

- Letters were sent to organizations who applied for 2016 Erie County Cultural Funding
- Exemplary Items / Issues & Concerns
  - No Response Required
  - Purpose:
    - Feedback offered to organizations
    - May help improve future applications to any source
    - To provide continuity for future EACAB reviews of applications

# Purpose of Review Process

- Extra care for public funds
- Understand return on public investment
- Investigate Fiscal Stability of applicant
- Avoid problematic publicity
- Provide External Governance Audit
- Ensure serious future planning

# Review Process – Budget Size

- Organizations are sorted by budget size
- Strengths & challenges are more comparable in a financial peer group
- Complexities of multi-million dollar budgets
- Special issues for large collecting organizations
- Allows appropriate understanding of the limitations of smallest organizations

# Review Process - Volunteers

- EACAB is a Volunteer Community Board
- Support from Environment & Planning staff
- 4 Committees
- Committee assigned 14 – 18 applications
- Chair for each Committee
- Lead Reviewer & 2 Readers for an application
- Written report for every application using standardized evaluation form
- Evaluation Form follows questions on application

# Review Process - Time

- Approximately 10 hours to completely review & understand 1 application, complete evaluation
- Volunteers & County staff review many applications per person
- Committees meet to discuss findings

# Review Process - Talent

- Volunteer Board with balanced mix of skills:
  - Financial
  - Legal
  - Management
  - Education
  - Media/public relations
  - Arts advocacy
  - Fund raising
  - Data analytics

# Overview: 2016

- 68 total applications
- 2 new applicants
- 4 not recommended for funding
- 1 application disqualified:
  - weeks late
  - incomplete information
- Net total of 63 organizations
- Total = \$5.83 million

# Additions 1

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- Legislature added 9 more organizations to 2016 Budget
- In category of Public Benefit Funding
- Grants range from \$2,500 - \$6,000
- Not reviewed by EACAB
- Total = \$36,000

# Additions 2

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- Legislature added funds to proposed budget for Art & Culture
- 8 organizations received increases
- Total additions = \$32,000

# Overview of Applicants

- Organizational Operating Budget range:  
\$7,000 to \$15.6 million
- Staffing Range:
  - many led by all volunteers
  - Largest with dozens of employees

# Overview, cont'd:

- Some exciting, young organizations
- Some refreshed energy from well-established
- Some truly thoughtful strategic plans
- Some serious organizational challenges
- Governance continues to be an under-performing area in the sector
- Evaluation continues to be misunderstood or not utilized

# Overview: By Budget Size (modest)

- Budget < \$50,000 = 11 organizations
- Budget < \$100,000 = 19 organizations  
(includes the 11 above)
- About 1/3 of applicant pool
- \*\*\*\*\*
- \$100,000 - \$200,000 = 8 organizations
- \$200,000 - \$500,000 = 13 organizations
- 40 organizations or 2/3 of applicant pool have operating budgets under \$500,000

# Overview: By Budget Size (substantial)

- \$500,000 - \$750,000 = 9 organizations
- \$750,000 - \$1 million = 4
- \$3.5 million - \$7.6 million = 4
- \$11.5 million - \$15.6 million = 2
- \*\*\*\*\*
- 23 organizational budgets > \$500,000
- Budget > \$1 million = 10 organizations

# Which data is useful?

- In 63 applications:
  - Median = \$300,000
  - Mean or average = \$1,168,264  
(not useful)

# Overview - 63 Final Reviews

- 12 Theaters
- 8 Orchestras, Bands, Music Groups
- 9 Museums & Big Collections
- 9 Smaller Museums & Galleries
- 5 House Museums
- 5 Choirs or Choruses
- 2 Dance Groups
  
- 11 Other

# Overview - 63 Final Reviews

- 2 recommended for decreased funding
- 8 recommended for an increase
- 14 recommended for a substantial increase
- In other words 35% were recommended for an increase

# Positive Trends

- The amount of money going into the sector from various sources is impressive!
  - *\$5.83 million from Erie County/part of the \$60 million total operating revenue of applicants*
  - *About a 10% investment by Erie County*

# Positive Trends

- Fresh leadership at many organizations
- Robust programming continues
- Some exceptional strategic plans
- National Accreditations earned
- Good use of working boards and volunteers to advance the mission of smaller organizations

# Positive Trends, cont'd.

- Increased programmatic & operational partnerships
- Tourism connections & potential
- Increasing national & international media attention on sector
- Rich variety of mission & activity
- Anticipated investments in physical places, care of collections, exhibits, increasing staff, etc.

# Cautionary Trends

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- Governance concerns
- Compliance with NYS Non-profit Revitalization Act
- Financial concerns
- Not completing application
- Sloppiness

# Cautionary Trends:

## Focus on Governance – Board Evaluations

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- “... describe if and how your governing board performs an annual self-evaluation.”
- Question above taken directly from application last 2 years.

# Focus on Governance: (old data)

## Board Self-Evaluation Update

- January 2014 we reported 20+ organizations did not answer question about board self-evaluation
- January 2015 – only 1 did not answer
- Example: Darwin Martin House asked CEPA & Just Buffalo to advise them
- 26 organizations now describe a process for board self-evaluation
- More than 30 organizations are still confused

# Focus on Governance: Board Self-Evaluation

- Confusion about Board self-evaluation, program evaluation, and strategic plan evaluation
- These are separate and distinct areas of evaluation
- ASI held trainings in 2015
- ASI will hold more training in 2016

# Focus on Governance: (old data)

## Board Self-Evaluation

- Excellence 4: response & process described
  - CEPA
  - Explore & More
  - Just Buffalo
  - Squeaky Wheel

# Cautionary Trends:

## Focus on Governance – Board Evaluations

- Suggested Sources for Evaluation Tools:
  - Graycliff – McKinsey Model for non-profits
  - Just Buffalo – Board Source “10 Basic Responsibilities for Board Members”
  - BP Chorus & Orchard Park Chorale - Chorus America Model
  - Roycroft – NYCON Model
  - Torn Space – National Center of Nonprofits Model

# Focus on Governance:

## Board List, Terms & Terms of Officers

- How many applicants? 63
- Application requires:
  - “List of all current board members & officers as of June 1, 2015.
  - For each member indicate term, length of service & if board member is independent.”
  - “For each officer, indicate length of their term in that position.”

# Focus on Governance:

## Board List, Terms & Terms of Officers

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- 29 applicants answered the question about the term served by current officers
- (35 did not answer)

# Governance Concern: Board Leadership

- Questionable independence of governing boards – 15 organizations did not answer
- See 2014 NYS Non-profit Revitalization Act
- Bylaws in effect? Is applicant in compliance with their own document?
  - Bylaws not dated or have not been updated
  - Number of trustees
  - Membership corporations - confusion

# Governance Concern: Board Leadership

- Gender diversity on boards
  - Erie County is 48% Male, 52% Female (2010 US Census)
  - Review uses a broad 60/40 range as benchmark

# Governance Concern: Board Leadership

## Gender diversity on boards , cont'd.

- 929 total trustees in 2015 data (930 in 2014):
  - 2015 = 376 female – 40%
  - 2014 = 405 female – 43.54%
  - **Approximate 10% decline is troubling**
- **Largest organizations by budget size have least gender balance on governing boards**

# Gender Balance: Smallest

- 28 organizations receiving Erie County grants of \$1,000 - \$10,000
- 13 outside 40%/60% range
- 50% need work

# Gender Balance: Middle #1

- 13 organizations receive Erie County grants of \$10,000 - \$25,000
- 5 outside 40%/60% range
- 38% need work

# Gender Balance: Middle #2

- 16 organizations receiving Erie County grants of \$30,000 - \$95,000
- 2 outside 40%/60% range
- 12.5% need work

# Gender Balance: Largest

- 8 organizations receiving Erie County grants of \$100,000 - \$1.5 million
- 5 outside 40%/60% range
- 62% need work

# Gender Balance: Largest

- Female Board Members as part of Total Trustees on Boards of 5 largest organizations (outside the 60/40 range)
  - 5 of 22 (23%)
  - 6 of 25 (24%)
  - 10 of 33 (22%)
  - 8 of 25 (32%)
  - 6 of 17 (35%)

# Governance Concern: Board Leadership

- Board Contributions
  - Topic: Board members as donors
  - Underreported?
  - Not tracked?
  - Organizations do not receive financial support from their leaders/board?

# Cautionary Trend:

## Changes in staff leadership

- Massive exodus of nonprofit leaders nationally
- Local community examples:
  - Sister Denise/D'Youville College
  - Sister Carney/St. Bonaventure
  - Tony Conte/Shea's
  - Barbara Carr/SPCA
  - Jax DeLuca/Squeaky Wheel

# Do you have a succession plan?

## Volunteer Leadership – see Chair-elect

### 2015 – 2016 Board of Trustees

- Kevin Kelly, *Chairman*
- Dennis R. Horrigan, *Chairman-elect*
- David McIntyre, *Vice Chairman*
- Philip C. Kadet, *Treasurer*
- Judy Dean, *Secretary*
- Yves-Richard Blanc
- Alan J. Bozer
- Joan Bozer, *Emeritus*
- Joanne Campagna
- Joseph Jerry Castiglia, *Emeritus*
- Richard C. Cummings
- Dennis Dargavel
- Clarke E. Eaton, Jr.
- Nickole Garrison
- Richard F. Griffin
- Florence Johnson
- Robert J. Kresse, *Emeritus*
- Anne V. McCune
- Joseph McMahan
- Elizabeth D. McPhail
- Mark V. Mistretta, *Emeritus*
- Jock Mitchell
- James D. Newman
- Corinne Rice
- Victor A. Rice, *Emeritus*
- Peter Savage
- Aaron Siegel
- Mary Simpson
- Julie R. Snyder
- Gretchen Toles, *Emeritus*
- Montique Williams
- Mark Zeis
- Steven Stepniak, *Ex-Officio*

# Cautionary Trends:

## Focus on Finance

- Increasing estimates of support from NYS – is this realistic?
- County funding requests above 30% of organization's most recent expense budget (over reliance on one source of funding)
- Federal funding for NEA has been at risk – seeing expected grants in applicant budgets is a concern
- Multi-year operational deficits
- Forecasting – overly optimistic?
- Cash flow *forecast* vs. statement (confusion persists)
- 990s – compliance problems with 2008 IRS changes

# Cautionary Trends: Focus on Finance

- Erie County is a significant donor
- Largest donor for the organization
- Insignificant or lack of acknowledgement, recognition of Erie County's support.
  - 2014, 2015 & 2016 application states:

## **RECOGNITION FOR COUNTY GRANTS:**

Please also be advised that if your Organization is awarded funding, you must commit to acknowledging Erie County as a funding source on your organization's website, marketing materials, and/or other publications.

# Recognition of Erie County Grant

- Required
- This is the creative & innovation sector
- No formula for “how” or “what” to do
- If your organization must be instructed on how to recognize a significant donor – or your most significant - it raises many more questions about how you treat your other supporters & the sustainability of your organization

# Cautionary Trends: Incomplete Applications

- Absence of required, supporting documents
- 1 year of financial data is not enough
- 3 years of financials is optimal
- Ignoring or incomplete essay questions
- Blanks in the application

# Answer the question:

## Real Examples of missed answers

- Question: Describe if & how board evaluation is conducted.
  - “we have non-board members as bookkeepers”
  - “board has the ability to perform a SWOT analysis”
  - “reports made at quarterly meetings on progress of preservation, ...fund raising, ...research, outreach...”

# Missing Answers: blanks for 3 totals - operating revenues, expenses & employees

PART 3 – APPLICANT DATA SUMMARY			
	Previous FY Actual	Current Budget	Current FY to Date
Total Operating Revenues			
Earned	328250	357,370	72,500
Corporate	12550	11,000	10000
Private	72784	56,000	15201
Public	43,510	63510	36,255
Total Operating Expenses (Not Capital)			
Number of Employees			
Full-Time	4	4	4
Part-Time	5	5	5
Number of Board Members	21	21	20
Number of Volunteers	200	200	200
Total Attendance	10,000	11,000	948
Paid Attendance	9750	10500	930
Unpaid Attendance	250	500	18
Virtual Attendance	38260	40000	10082

# Do Answers Make Sense? You can not have term limits & unlimited number of terms

## PART 6 – BOARD OF DIRECTORS DETAIL

Do your board members have term limits? ☒ Yes ☐ No

What is the length of one term? 3 years

How many consecutive terms are permitted? no limit

What is the minimum number of board meetings to be held within a fiscal year as required by your bylaws? 4

Number of board meetings held in FY 2014? 4

Number of board meetings with quorum present? 4

Number of Conflict of Interest forms collected and in force? 0

**List all current voting board members and officers as of June 1, 2015, as in your report to the community.  
For each officer, please indicate the length of their term in that position.<sup>2</sup>**

Board Member First & Last Name

Year Appointed

End of Term

Office Held,  
Length of Term

# Missing Answers: Compensation

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- TOTAL compensation for top 5 staff
- 21 organizations did not complete

# Missing Answers: Consultants

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- Top 5 consultants
- 23 organizations did not complete

# Missing Answers: Board Member Independence

- Critical governance question
- 15 organizations did not complete
- Boards MUST know definition
- Remember – legal definition is lowest level; seek best practices
- Protect your organization's reputation

# Accumulated Operating Surplus or Deficit ..... What is it?

## PART 7 – DOCUMENTATION OF FISCAL ACCOUNTABILITY<sup>4</sup>

Does your organization have an accumulated operating:

☒ Surplus

☐ Deficit

If yes, what is it? *(Do not include endowment/capital funds)*

\$

REVENUE (FULL FISCAL YEARS)

FY 2013  
Actual

FY 2014  
Actual

FY 2015  
Budget

FY 2015  
Actual YTD

FY 2016  
Projected

# 33 Applicants had problems with this question

- 17 organizations reported accumulated operating deficits
  - Lowest (\$1,500)
  - Highest (\$2,488,418)
- 9 did NOT answer the question
- 7 answers without a number

# Sloppiness

- Include best/current attachments
  - “Susan Smith”, trustee of ABC Arts, was listed as “Susan Graycliff” because she works at Graycliff (adapted to protect the innocent board member)
  - Submitted previous version of by-laws, 10 years old
  - Think ahead, prepare now
  - Update documents routinely
  - Date all governance documents & policies

# Help & Assistance

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- Applicant briefing will be held in May
- Arts Services Initiative (ASI)
  - Offers training & programs on financial & technical matters, governance, and basic strategic planning
- Application can not be undertaken at last minute

# Cautionary Trends: Focus on Governance

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- What does good governance look like?
- It is every board member's job to know

# NYS Nonprofit Revitalization Act

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- Effective July 1, 2014
- 3 Amendments added December 2015

# Mandatory Conflict of Interest Policy

- Required for ALL nonprofits & trusts
- Disclosure Statements
  - Must cover directors/trustees, officers & key employees
  - Collect Prior to initial election of any director/trustee
  - Complete, sign & date every year
- Minutes reflect issues of conflict for certain people & their non-participation in discussions & votes

# Mandatory Conflict of Interest Policy

## ■ 5 steps

- Policy **adopted & dated** by board, maintained in board policy manual; reviewed periodically
- Policy & disclosure form **distributed**
- **Signed**, completed & dated forms **collected**
- Collected forms **evaluated**
- Process of upholding policy **recorded annually**

# Red Flags in Applications

# Is the Policy enforced? Real example of reported declaration form collection enforcement (not answered on application)

PART 6 – BOARD OF DIRECTORS DETAIL		
Do your board members have term limits?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
What is the length of one term?	2 years	
How many consecutive terms are permitted?	2	
What is the minimum number of board meetings to be held within a fiscal year as required by your bylaws?	12	
Number of board meetings held in FY 2014?	16	
Number of board meetings with quorum present?	3 to 4	
Number of Conflict of Interest forms collected and in force?		

# Suspicious Date of Policy Adoption

(adopted 1 day prior to application deadline)

Board of Director Chair

W

o)

Adopted

Date 6/9/15

**Oh... just copy any policy (applicant used a NYC Local Development Corp's policy)**

**CONFLICTS OF INTEREST POLICY  
OF THE  
THEATER SUBDISTRICT COUNCIL  
LOCAL DEVELOPMENT CORPORATION**

1. No member, director or officer ("Covered Person") shall have any interest, in any grant, contract or other transaction proposed to be entered into by the Theater Subdistrict Council Local Development Corporation ("TSC"), except as provided in this policy.

For purposes of this section, an "interest" shall mean: (i) an "Ownership interest" as defined under Section 2601(16) of the New York City Charter and its implementing regulations, held by the Covered Person or such Covered Person's spouse, domestic partner or unemancipated children, in a firm or entity with respect to which the TSC proposes to enter into a grant, contract or other transaction; or (ii) a "Position", as defined under Section 2601(18) of the New York City Charter, held by the Covered Person in a firm or entity with respect to which the TSC proposes to enter into a grant, contract or other transaction.

# Independent Board Members – no answer

[illegible]

# Independence – link to definition provided on application



<sup>2</sup> *Advisory, emeritus, and ex-officio board members are optional. If listed, include on separate form extension. If more space is needed, a form extension can be found at [erie.gov/culturalfunding](http://erie.gov/culturalfunding).*

<sup>3</sup> *Definition of board member independence can be found at <http://www2.erie.gov/environment/index.php?q=IndependentDirectors>.*

# Does the information make sense?

If bylaws predate 2014 organization probably NOT in compliance with 2014 NYS law.

## PART 4 – DOCUMENT UPDATE INFORMATION

Year bylaws were last updated	2000	
Are bylaws in compliance with NYS Non-Profit Revitalization Act?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Year Strategic Plan was last updated	2013	
Year Conflict of Interest Policy was last updated	December 2013	
Year Whistleblower Policy was last updated	December 2013	

# Nonprofit Revitalization Act, cont'd

- Mandatory Whistleblower Policy
  - Limitations in law = lowest standard
  - Erie County looks for best practice for organizations of all sizes

# Nonprofit Revitalization Act, cont'd

- No employee may serve as Board Chair
- New definition of independent director & trustee
  - Not an employee in past 3 yrs.
  - Not a relative of a key employee of past 3 yrs.
  - Not received \$10,000 or more in direct compensation
  - Not a current employee or having a substantial financial interest

# Application - Past Process Changes: for 2016 Cultural Funding

- All electronic application process continued
- Cultural Data Project – dropped
- New Budget Pages – labeling problems
- 2017 Budget Pages – requesting volunteers to help improve the application by March 31<sup>st</sup>, 2016

# Labeling: example – tours are a form of admission

PART 7 – DOCUMENTATION OF FISCAL ACCOUNTABILITY <sup>4</sup>					
Does your organization have an accumulated operating:		<input type="checkbox"/> Surplus		<input type="checkbox"/> Deficit	
If yes, what is it? <i>(Do not include endowment/capital funds)</i>		\$			
REVENUE (FULL FISCAL YEARS)	FY 2013 Actual	FY 2014 Actual	FY 2015 Budget	FY 2015 Actual YTD	FY 2016 Projected
<b>Earned Income</b>					
1. Admissions					
2. Memberships	5,320	4,190	4,000	730	4,300
3. Fundraising events (gross)	36,315	41,713	45,000	5,341	45,000
4. Tuition (workshops)					
5. Contracted services					
6. Facility Rental		600	500	0	500
7. Advertising sales					
8. Proceeds: Goods Sales					
9. Other: Specify <b>Tours</b>		200	500	350	500
Misc		128	200	0	200

**2017 Application**

# Foreshadowing: Essay Questions

- Would be very close to prior applications
- Use questions to your benefit
- “Describe your biggest challenges and how you plan to address them.”
- “Please describe if and how your governing board performs an annual self-evaluation.”

# Foreshadowing: 2017 Cultural Funding

- Shifts in scope of EACAB
  - In past years, recommended fund/not fund;
  - 2014, 2015 & 2016 process, EACAB has also recommended consistent/increased/investment increase or decreased funding.
  - The administration has favored sharing constructive feedback with applicants.
    - Feedback letters contained comments on exemplary qualities/accomplishments as well as items of concern to help guide future funding applications and reviews

# Foreshadowing: 2017 Cultural Funding

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- Anticipated release of 2017 Cultural Funding application in early May 2016
- Orientation will be held to highlight changes & answer questions

# Foreshadowing: 2017 Cultural Funding

- 2017 process will again include multiple channels of communication:
  - Email/mail notifications
  - Website announcements
  - Facebook & Twitter blasts
  - ASI notifications
- Same information is provided to all Erie County legislators

# Questions & Comments